

Calendar No. 987

110TH CONGRESS
2D SESSION

S. 2805

To direct the Secretary of the Interior, acting through the Commissioner of Reclamation, to assess the irrigation infrastructure of the Rio Grande Pueblos in the State of New Mexico and provide grants to, and enter into cooperative agreements with, the Rio Grande Pueblos to repair, rehabilitate, or reconstruct existing infrastructure, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 2008

Mr. BINGAMAN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 16, 2008

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To direct the Secretary of the Interior, acting through the Commissioner of Reclamation, to assess the irrigation infrastructure of the Rio Grande Pueblos in the State of New Mexico and provide grants to, and enter into cooperative agreements with, the Rio Grande Pueblos to repair, rehabilitate, or reconstruct existing infrastructure, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rio Grande Pueblos
 5 Irrigation Infrastructure Improvement Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) drought, population increases, and environ-
 9 mental needs are exacerbating water supply issues
 10 across the western United States, including the Rio
 11 Grande Basin in New Mexico;

12 (2) a report developed by the Bureau of Ree-
 13 lamation and the Bureau of Indian Affairs in 2000
 14 identified a serious need for the rehabilitation and
 15 repair of irrigation infrastructure of the Rio Grande
 16 Pueblos;

17 (3) inspection of existing irrigation infrastruc-
 18 ture of the Rio Grande Pueblos shows that many
 19 key facilities, such as diversion structures and main
 20 conveyance ditches, are unsafe and barely, if at all,
 21 operable;

22 (4) the benefits of rehabilitating and repairing
 23 irrigation infrastructure of the Rio Grande Pueblos
 24 include—

25 (A) water conservation;

1 (~~B~~) extending available water supplies;
 2 (~~C~~) increased agricultural productivity;
 3 (~~D~~) economic benefits;
 4 (~~E~~) safer facilities; and
 5 (~~F~~) the preservation of the culture of In-
 6 dian Pueblos in the State;

7 (~~5~~) certain Indian Pueblos in the Rio Grande
 8 Basin receive water from facilities operated or owned
 9 by the Bureau of Reclamation; and
 10 (~~6~~) rehabilitation and repair of irrigation infra-
 11 structure of the Rio Grande Pueblos would im-
 12 prove—

13 (~~A~~) overall water management by the Bu-
 14 reau of Reclamation; and

15 (~~B~~) the ability of the Bureau of Reclama-
 16 tion to help address potential water supply con-
 17 flicts in the Rio Grande Basin.

18 (~~b~~) PURPOSE.—The purpose of this Act is to direct
 19 the Secretary—

20 (~~1~~) to assess the condition of the irrigation in-
 21 frastructure of the Rio Grande Pueblos;

22 (~~2~~) to establish priorities for the rehabilitation
 23 of irrigation infrastructure of the Rio Grande Pueb-
 24 los in accordance with specified criteria; and

1 ~~(3)~~ to implement projects to rehabilitate and
 2 improve the irrigation infrastructure of the Rio
 3 Grande Pueblos.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 ~~(1)~~ 2004 AGREEMENT.—The term “2004
 7 Agreement” means the agreement entitled “Agree-
 8 ment By and Between the United States of America
 9 and the Middle Rio Grande Conservancy District,
 10 Providing for the Payment of Operation and Mainte-
 11 nance Charges on Newly Reclaimed Pueblo Indian
 12 Lands in the Middle Rio Grande Valley, New Mex-
 13 ico” and executed in September 2004 (including any
 14 successor agreements and amendments to the agree-
 15 ment).

16 ~~(2)~~ DESIGNATED ENGINEER.—The term “des-
 17 ignated engineer” means a Federal employee des-
 18 ignated under the Act of February 14, 1927 (69
 19 Stat. 1098, chapter 138) to represent the United
 20 States in any action involving the maintenance, re-
 21 habilitation, or preservation of the condition of any
 22 irrigation structure or facility on land located in the
 23 Six Middle Rio Grande Pueblos.

1 ~~(3)~~ DISTRICT.—The term “District” means the
 2 Middle Rio Grande Conservancy District, a political
 3 subdivision of the State established in 1925.

4 ~~(4)~~ PUEBLO IRRIGATION INFRASTRUCTURE.—
 5 The term “Pueblo irrigation infrastructure” means
 6 any diversion structure, conveyance facility, or
 7 drainage facility located on land of a Rio Grande
 8 Pueblo that is associated with the delivery of water
 9 for the irrigation of agricultural land.

10 ~~(5)~~ RIO GRANDE BASIN.—The term “Rio
 11 Grande Basin” means the headwaters of the Rio
 12 Chama and the Rio Grande Rivers (including any
 13 tributaries) from the State line between Colorado
 14 and New Mexico downstream to the elevation cor-
 15 responding with the spillway crest of Elephant Butte
 16 Dam at 4,457.3 feet mean sea level.

17 ~~(6)~~ RIO GRANDE PUEBLO.—The term “Rio
 18 Grande Pueblo” means any of the 18 Pueblos that—

19 ~~(A)~~ occupy land in the Rio Grande Basin;
 20 and

21 ~~(B)~~ are included on the list of federally
 22 recognized Indian tribes published by the Sec-
 23 retary in accordance with section 104 of the
 24 Federally Recognized Indian Tribe List Act of
 25 1994 (25 U.S.C. 479a-1).

1 (7) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior, acting through the
3 Commissioner of Reclamation.

4 (8) SIX MIDDLE RIO GRANDE PUEBLOS.—The
5 term “Six Middle Rio Grande Pueblos” means each
6 of the Pueblos of Cochiti, Santo Domingo, San
7 Felipe, Santa Ana, Sandia, and Isleta.

8 (9) SPECIAL PROJECT.—The term “special
9 project” has the meaning given the term in the 2004
10 Agreement.

11 (10) STATE.—The term “State” means the
12 State of New Mexico.

13 **SEC. 4. IRRIGATION INFRASTRUCTURE STUDY.**

14 (a) STUDY.—

15 (1) IN GENERAL.—On the date of enactment of
16 this Act, the Secretary, in accordance with para-
17 graph (2), and in consultation with the Rio Grande
18 Pueblos, shall—

19 (A) conduct a study of Pueblo irrigation
20 infrastructure; and

21 (B) based on the results of the study, de-
22 velop a list of projects (including a cost esti-
23 mate for each project), that are recommended
24 to be implemented over a 10-year period to re-

1 pair, rehabilitate, or reconstruct Pueblo irriga-
 2 tion infrastructure.

3 ~~(2) REQUIRED CONSENT.~~—The Secretary shall
 4 carry out paragraph (1) with the consent of each
 5 Pueblo that notifies the Secretary of the intention of
 6 the Pueblo to participate in—

7 (A) the conduct of the study under para-
 8 graph (1)(A); and

9 (B) the development of the list of projects
 10 under paragraph (1)(B).

11 ~~(b) PRIORITY.~~—

12 ~~(1) CONSIDERATION OF FACTORS.~~—

13 (A) ~~IN GENERAL.~~—In developing the list of
 14 projects under subsection (a)(1)(B), the Sec-
 15 retary shall—

16 (i) consider each of the factors de-
 17 scribed in paragraph (2); and

18 (ii) prioritize the projects rec-
 19 ommended for implementation based on—

20 (I) a review of each of the fac-
 21 tors; and

22 (II) a consideration of the pro-
 23 jected benefits of the project on com-
 24 pletion of the project.

1 ~~(B) ELIGIBILITY OF PROJECTS.~~—A project
 2 is eligible to be considered and prioritized by
 3 the Secretary if the project addresses at least 1
 4 factor described in paragraph ~~(2)~~.

5 ~~(2) FACTORS.~~—The factors referred to in para-
 6 graph ~~(1)~~ are—

7 ~~(A)(i)~~ the extent of disrepair of the Pueblo
 8 irrigation infrastructure; and

9 ~~(ii)~~ the effect of the disrepair on the ability
 10 of the applicable Rio Grande Pueblo to irrigate
 11 agricultural land using Pueblo irrigation infra-
 12 structure;

13 ~~(B)~~ whether, and the extent that, the re-
 14 pair, rehabilitation, or reconstruction of the
 15 Pueblo irrigation infrastructure would provide
 16 an opportunity to conserve water;

17 ~~(C)(i)~~ the economic and cultural impacts
 18 that the Pueblo irrigation infrastructure that is
 19 in disrepair has on the applicable Rio Grande
 20 Pueblo; and

21 ~~(ii)~~ the economic and cultural benefits that
 22 the repair, rehabilitation, or reconstruction of
 23 the Pueblo irrigation infrastructure would have
 24 on the applicable Rio Grande Pueblo;

1 ~~(D)~~ the opportunity to address water sup-
 2 ply or environmental conflicts in the applicable
 3 river basin if the Pueblo irrigation infrastruc-
 4 ture is repaired, rehabilitated, or reconstructed;
 5 and

6 ~~(E)~~ the overall benefits of the project to ef-
 7 ficient water operations on the land of the ap-
 8 plicable Rio Grande Pueblo.

9 ~~(c)~~ CONSULTATION.—In developing the list of
 10 projects under subsection ~~(a)(1)(B)~~, the Secretary shall
 11 consult with the Director of the Bureau of Indian Affairs
 12 (including the designated engineer with respect to each
 13 proposed project that affects the Six Middle Rio Grande
 14 Pueblos), the Chief of the Natural Resources Conservation
 15 Service, and the Chief of Engineers to evaluate the extent
 16 to which programs under the jurisdiction of the respective
 17 agencies may be used—

18 ~~(1)~~ to assist in evaluating projects to repair, re-
 19 habilitate, or reconstruct Pueblo irrigation infra-
 20 structure; and

21 ~~(2)~~ to implement—

22 ~~(A)~~ a project recommended for implemen-
 23 tation under subsection ~~(a)(1)(B)~~; or

24 ~~(B)~~ any other related project (including
 25 on-farm improvements) that may be appro-

1 priately coordinated with the repair, rehabilita-
 2 tion, or reconstruction of Pueblo irrigation in-
 3 frastructure to improve the efficient use of
 4 water in the Rio Grande Basin.

5 (d) REPORT.—Not later than 18 months after the
 6 date of enactment of this Act, the Secretary shall submit
 7 to the Committee on Energy and Natural Resources of
 8 the Senate and the Committee on Resources of the House
 9 of Representatives a report that includes—

10 (1) the list of projects recommended for imple-
 11 mentation under subsection (a)(1)(B); and

12 (2) any findings of the Secretary with respect
 13 to—

14 (A) the study conducted under subsection
 15 (a)(1)(A);

16 (B) the consideration of the factors under
 17 subsection (b)(2); and

18 (C) the consultations under subsection (c).

19 (e) BIENNIAL REVIEW.—Not later than 2 years after
 20 the date on which the Secretary submits the report under
 21 subsection (d) and biennially thereafter, the Secretary, in
 22 consultation with each Rio Grande Pueblo, shall—

23 (1) review the report submitted under sub-
 24 section (d); and

1 (2) update the list of projects described in sub-
 2 section (d)(1) in accordance with each factor de-
 3 scribed in subsection (b)(2), as the Secretary deter-
 4 mines to be appropriate.

5 **SEC. 5. IRRIGATION INFRASTRUCTURE GRANTS.**

6 (a) IN GENERAL.—The Secretary may provide grants
 7 to, and enter into cooperative agreements with, the Rio
 8 Grande Pueblos to plan, design, construct, or otherwise
 9 implement projects to repair, rehabilitate, reconstruct, or
 10 replace Pueblo irrigation infrastructure that are rec-
 11 ommended for implementation under section 4(a)(1)(B)—

12 (1) to increase water use efficiency and agricul-
 13 tural productivity for the benefit of a Rio Grande
 14 Pueblo;

15 (2) to conserve water; or

16 (3) to otherwise enhance water management or
 17 help avert water supply conflicts in the Rio Grande
 18 Basin.

19 (b) LIMITATION.—Assistance provided under sub-
 20 section (a) shall not be used for—

21 (1) the repair, rehabilitation, or reconstruction
 22 of any major impoundment structure;

23 (2) any on-farm improvements; or

24 (3) the rehabilitation of any Pueblo irrigation
 25 infrastructure for the purpose of irrigating Rio

1 Grande Pueblo land that has not been historically ir-
 2 rigated.

3 ~~(c) CONSULTATION.—In carrying out a project under~~
 4 ~~subsection (a), the Secretary shall—~~

5 ~~(1) consult with, and obtain the approval of, the~~
 6 ~~applicable Rio Grande Pueblo;~~

7 ~~(2) consult with the Director of the Bureau of~~
 8 ~~Indian Affairs; and~~

9 ~~(3) as appropriate, coordinate the project with~~
 10 ~~any work being conducted under the irrigation oper-~~
 11 ~~ations and maintenance program of the Bureau of~~
 12 ~~Indian Affairs.~~

13 ~~(d) COST-SHARING REQUIREMENT.—~~

14 ~~(1) FEDERAL SHARE.—~~

15 ~~(A) IN GENERAL.—Except as provided in~~
 16 ~~subparagraph (B), the Federal share of the~~
 17 ~~total cost of carrying out a project under sub-~~
 18 ~~section (a) shall be not more than 75 percent.~~

19 ~~(B) EXCEPTION.—The Secretary may~~
 20 ~~waive or limit the non-Federal share required~~
 21 ~~under subparagraph (A) if the Secretary deter-~~
 22 ~~mines, based on a demonstration of financial~~
 23 ~~hardship by the Rio Grande Pueblo, that the~~
 24 ~~Rio Grande Pueblo is unable to contribute the~~
 25 ~~required non-Federal share.~~

(2) DISTRICT CONTRIBUTIONS.—

(A) IN GENERAL.—The Secretary may accept from the District a partial or total contribution toward the non-Federal share required for a project carried out under subsection (a) on land located in any of the Six Middle Rio Grande Pueblos if the Secretary determines that the project is a special project.

(B) LIMITATION.—Nothing in subparagraph (A) requires the District to contribute to the non-Federal share of the cost of a project carried out under subsection (a).

(3) STATE CONTRIBUTIONS.—

(A) IN GENERAL.—The Secretary may accept from the State a partial or total contribution toward the non-Federal share for a project carried out under subsection (a).

(B) LIMITATION.—Nothing in subparagraph (A) requires the State to contribute to the non-Federal share of the cost of a project carried out under subsection (a).

(4) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1)(A) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Sec-

1 retary determines would substantially contribute to a
2 project carried out under subsection (a).

3 (c) OPERATION AND MAINTENANCE.—The Secretary
4 may not use any amount made available under section
5 8(b) to carry out the operation or maintenance of any
6 project carried out under subsection (a).

7 **SEC. 6. EFFECT ON EXISTING AUTHORITY AND RESPON-**
8 **SIBILITIES.**

9 Nothing in this Act—

10 (1) affects any existing project-specific funding
11 authority; or

12 (2) limits or absolves the United States from
13 any responsibility to any Rio Grande Pueblo (includ-
14 ing any responsibility arising from a trust relation-
15 ship or from any Federal law (including regula-
16 tions), Executive order, or agreement between the
17 Federal Government and any Rio Grande Pueblo).

18 **SEC. 7. EFFECT ON PUEBLO WATER RIGHTS OR STATE**
19 **WATER LAW.**

20 (a) PUEBLO WATER RIGHTS.—Nothing in this Act
21 (including the implementation of any project carried out
22 in accordance with this Act) affects the right of any Pueb-
23 lo to receive, divert, store, or claim a right to water, in-
24 cluding the priority of right and the quantity of water as-
25 sociated with the water right under Federal or State law.

1 (b) ~~STATE WATER LAW.~~—Nothing in this Act pre-
2 empts or affects—

3 (1) ~~State water law; or~~

4 (2) ~~an interstate compact governing water.~~

5 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) ~~STUDY.~~—There is authorized to be appropriated
7 to carry out section 4 ~~\$4,000,000.~~

8 (b) ~~PROJECTS.~~—There is authorized to be appro-
9 priated to carry out section 5 ~~\$6,000,000~~ for each of fiscal
10 years ~~2010 through 2019.~~

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Rio Grande Pueblos Ir-*
13 *rigation Infrastructure Improvement Act”.*

14 **SEC. 2. FINDINGS AND PURPOSE.**

15 (a) *FINDINGS.*—Congress finds that—

16 (1) *drought, population increases, and environ-*
17 *mental needs are exacerbating water supply issues*
18 *across the western United States, including the Rio*
19 *Grande Basin in New Mexico;*

20 (2) *a report developed by the Bureau of Rec-*
21 *lamation and the Bureau of Indian Affairs in 2000*
22 *identified a serious need for the rehabilitation and re-*
23 *pair of irrigation infrastructure of the Rio Grande*
24 *Pueblos;*

1 (3) inspection of existing irrigation infrastruc-
 2 ture of the Rio Grande Pueblos shows that many key
 3 facilities, such as diversion structures and main con-
 4 veyance ditches, are unsafe and barely, if at all, oper-
 5 able;

6 (4) the benefits of rehabilitating and repairing
 7 irrigation infrastructure of the Rio Grande Pueblos
 8 include—

9 (A) water conservation;

10 (B) extending available water supplies;

11 (C) increased agricultural productivity;

12 (D) economic benefits;

13 (E) safer facilities; and

14 (F) the preservation of the culture of Indian
 15 Pueblos in the State;

16 (5) certain Indian Pueblos in the Rio Grande
 17 Basin receive water from facilities operated or owned
 18 by the Bureau of Reclamation; and

19 (6) rehabilitation and repair of irrigation infra-
 20 structure of the Rio Grande Pueblos would improve—

21 (A) overall water management by the Bu-
 22 reau of Reclamation; and

23 (B) the ability of the Bureau of Reclama-
 24 tion to help address potential water supply con-
 25 flicts in the Rio Grande Basin.

1 (b) *PURPOSE.*—*The purpose of this Act is to direct the*
 2 *Secretary—*

3 (1) *to assess the condition of the irrigation infra-*
 4 *structure of the Rio Grande Pueblos;*

5 (2) *to establish priorities for the rehabilitation of*
 6 *irrigation infrastructure of the Rio Grande Pueblos*
 7 *in accordance with specified criteria; and*

8 (3) *to implement projects to rehabilitate and im-*
 9 *prove the irrigation infrastructure of the Rio Grande*
 10 *Pueblos.*

11 **SEC. 3. DEFINITIONS.**

12 *In this Act:*

13 (1) *2004 AGREEMENT.*—*The term “2004 Agree-*
 14 *ment” means the agreement entitled “Agreement By*
 15 *and Between the United States of America and the*
 16 *Middle Rio Grande Conservancy District, Providing*
 17 *for the Payment of Operation and Maintenance*
 18 *Charges on Newly Reclaimed Pueblo Indian Lands in*
 19 *the Middle Rio Grande Valley, New Mexico” and exe-*
 20 *cuted in September 2004 (including any successor*
 21 *agreements and amendments to the agreement).*

22 (2) *DESIGNATED ENGINEER.*—*The term “des-*
 23 *ignated engineer” means a Federal employee des-*
 24 *ignated under the Act of February 14, 1927 (69 Stat.*
 25 *1098, chapter 138) to represent the United States in*

1 *any action involving the maintenance, rehabilitation,*
 2 *or preservation of the condition of any irrigation*
 3 *structure or facility on land located in the Six Middle*
 4 *Rio Grande Pueblos.*

5 (3) *DISTRICT.*—*The term “District” means the*
 6 *Middle Rio Grande Conservancy District, a political*
 7 *subdivision of the State established in 1925.*

8 (4) *PUEBLO IRRIGATION INFRASTRUCTURE.*—*The*
 9 *term “Pueblo irrigation infrastructure” means any*
 10 *diversion structure, conveyance facility, or drainage*
 11 *facility that is—*

12 (A) *in existence as of the date of enactment*
 13 *of this Act; and*

14 (B) *located on land of a Rio Grande Pueblo*
 15 *that is associated with—*

16 (i) *the delivery of water for the irriga-*
 17 *tion of agricultural land; or*

18 (ii) *the carriage of irrigation return*
 19 *flows and excess water from the land that is*
 20 *served.*

21 (5) *RIO GRANDE BASIN.*—*The term “Rio Grande*
 22 *Basin” means the headwaters of the Rio Chama and*
 23 *the Rio Grande Rivers (including any tributaries)*
 24 *from the State line between Colorado and New Mexico*
 25 *downstream to the elevation corresponding with the*

1 *spillway crest of Elephant Butte Dam at 4,457.3 feet*
 2 *mean sea level.*

3 (6) *RIO GRANDE PUEBLO.*—*The term “Rio*
 4 *Grande Pueblo” means any of the 18 Pueblos that—*

5 (A) *occupy land in the Rio Grande Basin;*
 6 *and*

7 (B) *are included on the list of federally rec-*
 8 *ognized Indian tribes published by the Secretary*
 9 *in accordance with section 104 of the Federally*
 10 *Recognized Indian Tribe List Act of 1994 (25*
 11 *U.S.C. 479a–1).*

12 (7) *SECRETARY.*—*The term “Secretary” means*
 13 *the Secretary of the Interior, acting through the Com-*
 14 *missioner of Reclamation.*

15 (8) *SIX MIDDLE RIO GRANDE PUEBLOS.*—*The*
 16 *term “Six Middle Rio Grande Pueblos” means each*
 17 *of the Pueblos of Cochiti, Santo Domingo, San Felipe,*
 18 *Santa Ana, Sandia, and Isleta.*

19 (9) *SPECIAL PROJECT.*—*The term “special*
 20 *project” has the meaning given the term in the 2004*
 21 *Agreement.*

22 (10) *STATE.*—*The term “State” means the State*
 23 *of New Mexico.*

24 **SEC. 4. IRRIGATION INFRASTRUCTURE STUDY.**

25 (a) *STUDY.*—

1 (1) *IN GENERAL.*—On the date of enactment of
 2 this Act, the Secretary, in accordance with paragraph
 3 (2), and in consultation with the Rio Grande Pueblos,
 4 shall—

5 (A) conduct a study of Pueblo irrigation in-
 6 frastructure; and

7 (B) based on the results of the study, de-
 8 velop a list of projects (including a cost estimate
 9 for each project), that are recommended to be im-
 10 plemented over a 10-year period to repair, reha-
 11 bilitate, or reconstruct Pueblo irrigation infra-
 12 structure.

13 (2) *REQUIRED CONSENT.*—In carrying out para-
 14 graph (1), the Secretary shall only include each indi-
 15 vidual Rio Grande Pueblo that notifies the Secretary
 16 that the Pueblo consents to participate in—

17 (A) the conduct of the study under para-
 18 graph (1)(A); and

19 (B) the development of the list of projects
 20 under paragraph (1)(B) with respect to the
 21 Pueblo.

22 (b) *PRIORITY.*—

23 (1) *CONSIDERATION OF FACTORS.*—

1 (A) *IN GENERAL.*—*In developing the list of*
 2 *projects under subsection (a)(1)(B), the Secretary*
 3 *shall—*

4 (i) *consider each of the factors de-*
 5 *scribed in paragraph (2); and*

6 (ii) *prioritize the projects rec-*
 7 *ommended for implementation based on—*

8 (I) *a review of each of the factors;*

9 *and*

10 (II) *a consideration of the pro-*
 11 *jected benefits of the project on comple-*
 12 *tion of the project.*

13 (B) *ELIGIBILITY OF PROJECTS.*—*A project*
 14 *is eligible to be considered and prioritized by the*
 15 *Secretary if the project addresses at least 1 factor*
 16 *described in paragraph (2).*

17 (2) *FACTORS.*—*The factors referred to in para-*
 18 *graph (1) are—*

19 (A)(i) *the extent of disrepair of the Pueblo*
 20 *irrigation infrastructure; and*

21 (ii) *the effect of the disrepair on the ability*
 22 *of the applicable Rio Grande Pueblo to irrigate*
 23 *agricultural land using Pueblo irrigation infra-*
 24 *structure;*

1 (B) whether, and the extent that, the repair,
 2 rehabilitation, or reconstruction of the Pueblo ir-
 3 rigation infrastructure would provide an oppor-
 4 tunity to conserve water;

5 (C)(i) the economic and cultural impacts
 6 that the Pueblo irrigation infrastructure that is
 7 in disrepair has on the applicable Rio Grande
 8 Pueblo; and

9 (ii) the economic and cultural benefits that
 10 the repair, rehabilitation, or reconstruction of
 11 the Pueblo irrigation infrastructure would have
 12 on the applicable Rio Grande Pueblo;

13 (D) the opportunity to address water sup-
 14 ply or environmental conflicts in the applicable
 15 river basin if the Pueblo irrigation infrastruc-
 16 ture is repaired, rehabilitated, or reconstructed;
 17 and

18 (E) the overall benefits of the project to effi-
 19 cient water operations on the land of the appli-
 20 cable Rio Grande Pueblo.

21 (c) CONSULTATION.—In developing the list of projects
 22 under subsection (a)(1)(B), the Secretary shall consult with
 23 the Director of the Bureau of Indian Affairs (including the
 24 designated engineer with respect to each proposed project
 25 that affects the Six Middle Rio Grande Pueblos), the Chief

1 *of the Natural Resources Conservation Service, and the*
 2 *Chief of Engineers to evaluate the extent to which programs*
 3 *under the jurisdiction of the respective agencies may be*
 4 *used—*

5 *(1) to assist in evaluating projects to repair, re-*
 6 *habilitate, or reconstruct Pueblo irrigation infrastruc-*
 7 *ture; and*

8 *(2) to implement—*

9 *(A) a project recommended for implementa-*
 10 *tion under subsection (a)(1)(B); or*

11 *(B) any other related project (including on-*
 12 *farm improvements) that may be appropriately*
 13 *coordinated with the repair, rehabilitation, or re-*
 14 *construction of Pueblo irrigation infrastructure*
 15 *to improve the efficient use of water in the Rio*
 16 *Grande Basin.*

17 *(d) REPORT.—Not later than 2 years after the date*
 18 *of enactment of this Act, the Secretary shall submit to the*
 19 *Committee on Energy and Natural Resources of the Senate*
 20 *and the Committee on Resources of the House of Representa-*
 21 *tives a report that includes—*

22 *(1) the list of projects recommended for imple-*
 23 *mentation under subsection (a)(1)(B); and*

24 *(2) any findings of the Secretary with respect*
 25 *to—*

1 (A) the study conducted under subsection
2 (a)(1)(A);

3 (B) the consideration of the factors under
4 subsection (b)(2); and

5 (C) the consultations under subsection (c).

6 (e) *PERIODIC REVIEW*.—Not later than 4 years after
7 the date on which the Secretary submits the report under
8 subsection (d) and every 4 years thereafter, the Secretary,
9 in consultation with each Rio Grande Pueblo, shall—

10 (1) review the report submitted under subsection
11 (d); and

12 (2) update the list of projects described in sub-
13 section (d)(1) in accordance with each factor de-
14 scribed in subsection (b)(2), as the Secretary deter-
15 mines to be appropriate.

16 **SEC. 5. IRRIGATION INFRASTRUCTURE GRANTS.**

17 (a) *IN GENERAL*.—The Secretary may provide grants
18 to, and enter into contracts or other agreements with, the
19 Rio Grande Pueblos to plan, design, construct, or otherwise
20 implement projects to repair, rehabilitate, reconstruct, or
21 replace Pueblo irrigation infrastructure that are rec-
22 ommended for implementation under section 4(a)(1)(B)—

23 (1) to increase water use efficiency and agricul-
24 tural productivity for the benefit of a Rio Grande
25 Pueblo;

1 (2) *to conserve water; or*

2 (3) *to otherwise enhance water management or*
 3 *help avert water supply conflicts in the Rio Grande*
 4 *Basin.*

5 (b) *LIMITATION.*—*Assistance provided under sub-*
 6 *section (a) shall not be used for—*

7 (1) *the repair, rehabilitation, or reconstruction*
 8 *of any major impoundment structure; or*

9 (2) *any on-farm improvements.*

10 (c) *CONSULTATION.*—*In carrying out a project under*
 11 *subsection (a), the Secretary shall—*

12 (1) *consult with, and obtain the approval of, the*
 13 *applicable Rio Grande Pueblo;*

14 (2) *consult with the Director of the Bureau of*
 15 *Indian Affairs; and*

16 (3) *as appropriate, coordinate the project with*
 17 *any work being conducted under the irrigation oper-*
 18 *ations and maintenance program of the Bureau of In-*
 19 *dian Affairs.*

20 (d) *COST-SHARING REQUIREMENT.*—

21 (1) *FEDERAL SHARE.*—

22 (A) *IN GENERAL.*—*Except as provided in*
 23 *subparagraph (B), the Federal share of the total*
 24 *cost of carrying out a project under subsection*
 25 *(a) shall be not more than 75 percent.*

1 (B) *EXCEPTION.*—*The Secretary may waive*
 2 *or limit the non-Federal share required under*
 3 *subparagraph (A) if the Secretary determines,*
 4 *based on a demonstration of financial hardship*
 5 *by the Rio Grande Pueblo, that the Rio Grande*
 6 *Pueblo is unable to contribute the required non-*
 7 *Federal share.*

8 (2) *DISTRICT CONTRIBUTIONS.*—

9 (A) *IN GENERAL.*—*The Secretary may ac-*
 10 *cept from the District a partial or total con-*
 11 *tribution toward the non-Federal share required*
 12 *for a project carried out under subsection (a) on*
 13 *land located in any of the Six Middle Rio*
 14 *Grande Pueblos if the Secretary determines that*
 15 *the project is a special project.*

16 (B) *LIMITATION.*—*Nothing in subparagraph*
 17 *(A) requires the District to contribute to the non-*
 18 *Federal share of the cost of a project carried out*
 19 *under subsection (a).*

20 (3) *STATE CONTRIBUTIONS.*—

21 (A) *IN GENERAL.*—*The Secretary may ac-*
 22 *cept from the State a partial or total contribu-*
 23 *tion toward the non-Federal share for a project*
 24 *carried out under subsection (a).*

1 (B) *LIMITATION.*—*Nothing in subparagraph*
 2 (A) *requires the State to contribute to the non-*
 3 *Federal share of the cost of a project carried out*
 4 *under subsection (a).*

5 (4) *FORM OF NON-FEDERAL SHARE.*—*The non-*
 6 *Federal share under paragraph (1)(A) may be in the*
 7 *form of in-kind contributions, including the contribu-*
 8 *tion of any valuable asset or service that the Sec-*
 9 *retary determines would substantially contribute to a*
 10 *project carried out under subsection (a).*

11 (e) *OPERATION AND MAINTENANCE.*—*The Secretary*
 12 *may not use any amount made available under section 8(b)*
 13 *to carry out the operation or maintenance of any project*
 14 *carried out under subsection (a).*

15 **SEC. 6. EFFECT ON EXISTING AUTHORITY AND RESPON-**
 16 **SIBILITIES.**

17 *Nothing in this Act—*

18 (1) *affects any existing project-specific funding*
 19 *authority; or*

20 (2) *limits or absolves the United States from any*
 21 *responsibility to any Rio Grande Pueblo (including*
 22 *any responsibility arising from a trust relationship*
 23 *or from any Federal law (including regulations), Ex-*
 24 *ecutive order, or agreement between the Federal Gov-*
 25 *ernment and any Rio Grande Pueblo).*

1 **SEC. 7. EFFECT ON PUEBLO WATER RIGHTS OR STATE**
 2 **WATER LAW.**

3 (a) *PUEBLO WATER RIGHTS.*—*Nothing in this Act*
 4 *(including the implementation of any project carried out*
 5 *in accordance with this Act) affects the right of any Pueblo*
 6 *to receive, divert, store, or claim a right to water, including*
 7 *the priority of right and the quantity of water associated*
 8 *with the water right under Federal or State law.*

9 (b) *STATE WATER LAW.*—*Nothing in this Act pre-*
 10 *empts or affects—*

11 (1) *State water law; or*

12 (2) *an interstate compact governing water.*

13 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) *STUDY.*—*There is authorized to be appropriated*
 15 *to carry out section 4 \$4,000,000.*

16 (b) *PROJECTS.*—*There is authorized to be appro-*
 17 *priated to carry out section 5 \$6,000,000 for each of fiscal*
 18 *years 2010 through 2019.*

Calendar No. 987

110TH CONGRESS
2D Session

S. 2805

A BILL

To direct the Secretary of the Interior, acting through the Commissioner of Reclamation, to assess the irrigation infrastructure of the Rio Grande Pueblos in the State of New Mexico and provide grants to, and enter into cooperative agreements with, the Rio Grande Pueblos to repair, rehabilitate, or reconstruct existing infrastructure, and for other purposes.

SEPTEMBER 16, 2008

Reported with an amendment